

Item No: \_\_\_\_\_

Moved by: \_\_\_\_\_

Prepared by: Julian T. Bolton, Esq.

Seconded by: \_\_\_\_\_

Reviewed by: Marcy Ingram

RESOLUTION ESTABLISHING THE GUIDELINES FOR THE EXPENDITURE OF SURPLUS FUNDS RESULTING FROM AN EXCESS OF TAX COLLECTIONS AND OTHER REVENUE THAT IS IN EXCESS OF BUDGETED AMOUNTS FOR ANY GIVEN FISCAL YEAR (SURPLUS FUNDS). SPONSORED BY COMMISSIONER HEIDI SHAFER.

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WHEREAS, Pursuant to Art. III, Section 3.03 (B) of the Shelby County Charter, the Shelby County Mayor presented a budget to the Board of Commissioners showing the sums necessary to carry out the functions of the County for Fiscal Year 2016; and

WHEREAS, Pursuant to Art. II, Section 2.01 of the Shelby County Charter, the Board of County Commissioners is authorized to make appropriations of County funds for all legal purposes and to appropriate the proceeds of the tax levy on the assessed values of all properties; and

WHEREAS, The Shelby County Commission has encountered difficulty during the budget planning session in determining accurately what funds are available to address the various fiscal needs of the citizens of Shelby County, particularly in relation to surplus tax collections and budgeted funds allocated in any given fiscal year that are not expended or encumbered by fiscal year end; and

WHEREAS, The sums necessary to carry out the functions of the County for each fiscal year are adopted by Resolution and entitled "Resolution Approving and Appropriating Shelby County Government's Operating Budget"; and

WHEREAS, The revenue necessary to carry out the functions for any given fiscal year is adopted by the "Ordinance Fixing the Tax Rate for Shelby County" each fiscal year after detailed examination by the Board of Commissioners and Budget Committee; and

WHEREAS, In the *event* that that the tax collections and their *revenue* exceed the total number of expenditures budgeted to carry out the functions of the County, it is proposed that the excess of collections over the amount appropriated (also commonly referred to as "surplus funds") shall be held as follows and be applied to the appropriation for the next Fiscal Year as needed:

\_\_% of the surplus funds will be added to the Education Fund which will be allocated and apportioned at \$2.16 in accordance with the FY17 tax rate ordinance,

\_\_% of the surplus funds will be added to the General Fund which will be allocated and apportioned at \$1.45 in accordance with the FY17 tax rate ordinance,

\_\_% of the surplus funds will be added to the Debt Service Fund which will be allocated and apportioned at \$.78 in accordance with the FY17 tax rate ordinance.

WHEREAS, for the purpose of this resolution, surplus funds are defined as follows:

- A. For Shelby County property and personalty taxes, surplus funds are the net balance of all such taxes collected by the County's Trustee, or any agent of the Trustee, for any fiscal year that exceeds the budgeted amount for that fiscal year, less statutory fees allowed.
- B. For other fees and sales taxes, surplus funds are the net balance of all fees and sales taxes collected that are payable to Shelby County or any of its' divisions, that exceed the amount budgeted for collection for any *given* fiscal year.

C. For wheel tax revenues, surplus funds are the net balance of wheel tax collections for any fiscal year that exceeds the total revenue budgeted from the wheel tax fund for that same fiscal year.

D. Surplus funds are any other funds remaining at the end of a fiscal year as which are not encumbered or otherwise legally obligated to be drawn from prior fiscal year's fund balance; and

WHEREAS, the County Commission desires that all remaining funds after the annual allocation of surplus funds during the budget session are determined as spelled out above and used to supplement as necessary the Education Fund, the General Fund, or the Debt Service Fund, that the remaining amount of surplus funds be restricted and placed in the Shelby County Commissioner Contingency Fund for any use that is consisted with the State of Tennessee laws governing appropriations, the Charter of Shelby County, and the ordinance setting forth the tax rate for the specific year for which those funds were derived.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the surplus funds shall be held as follows and be applied to the appropriation for Fiscal Year 2017:

\_\_% of the surplus funds will be added to the Education Fund which will be allocated and apportioned at \$2.16 in accordance with the FY17 tax rate ordinance,

\_\_% of the surplus funds will be added to the General Fund which will be allocated and apportioned at \$1.45 in accordance with the FY17 tax rate ordinance,

\_\_% of the surplus funds will be added to the Debt Service Fund which will be allocated and apportioned at \$.78 in accordance with the FY17 tax rate ordinance.

BE IT FURTHER RESOLVED, That the balance of all surplus funds described above for the Education Fund, the General Fund, or the Debt Service Fund will be held

as restricted funds for use for any lawful purposes under the laws of the State of Tennessee and the Charter of Shelby County in the Shelby County Commissioner's Contingency Fund as restricted funds pursuant to the conditions of the ordinance setting the tax rate for the specific year from which those funds are derived.

BE IT FURTHER RESOLVED, That any remaining tax surplus funds from fiscal year 2016? be identified and moved to the County Commissioner's Contingency Fund and be used for any lawful purpose under the laws of the State of Tennessee and the charter of Shelby County as a restricted fund to be consistent with the ordinances setting the tax rate from which those funds were derived.

BE IT FURTHER RESOLVED, That no funds may be removed from the Commissioner's Contingency Fund from these restricted balances without an affirmative vote of the Shelby County Board of Commissioners for purposes spelled out in the resolution requesting the expenditure, allocation or encumbrance of the funds as contemplated by Tenn. Code Ann. Section 5-9-401 ("All funds from whatever source derived, including, but not limited to, taxes, county aid funds, federal funds, and fines, that are to be used in the operation and respective programs of the various departments ... of county governments shall be appropriated to such use by the **county legislative bodies.**" Emphasis Added).

BE IT FURTHER RESOLVED, That this Resolution shall take effect in accordance with the Shelby County Charter, Article II, Section 2.06(B).

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Mark H. Luttrell, Jr.  
Shelby County Mayor

Date:\_\_\_\_\_

ATTEST:

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Clerk of County Commission

ADOPTED:\_\_\_\_\_